

12-23-05

RCE
IFW**REQUEST FOR CONTINUED EXAMINATION (RCE)
TRANSMITTAL**

Address to: Mail Stop RCE, Commissioner for Patents, P.O. Box-1450, Alexandria, Virginia 22313-1450

Application No. 09/405,826
Filing Date September 24, 1999
First Named Inventor Annette Wagner
Art Unit 2681
Examiner Name Beamer, Temica M.
Attorney Docket No. 82225P2813D3

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See instruction sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. § 1.114** – Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. ☐ Previously submitted If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.)
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- iii. ☐ Other _____
- b. ☒ Enclosed 12/27/2005 5SESHE1 00000042 09405826
- i. ☒ Amendment/Reply 01 FC:1801 790.00 OP
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☒ Other **Cross-Reference Under 37 C.F.R. § 1.78(a)(2) to Related Applications (2 pgs.)**
2. **Miscellaneous**
- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months. Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other _____
3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by C.F.R. § 1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-2666
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Processing fee under 37 CFR § 1.17(i) for Limited Suspension of Action
- iv. ☒ Other **Any fee deficiency**
- b. ☒ Check in the amount of \$ 790.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)
- WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type) Lester J. Vincent Registration No. (Attorney/Agent) 31,460

Signature [Signature] Date December 21, 2005

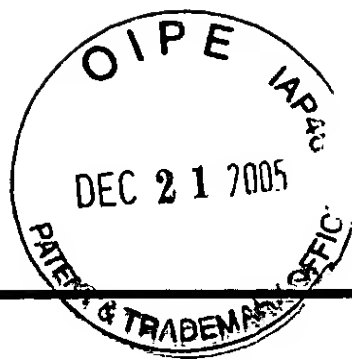
CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

Name (Print/Type) _____

Signature _____ Date _____

Express Mail No. (only if applicable): EV567491129US



INSTRUCTION SHEET FOR RCEs

(Not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:

Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

Request for Suspension of Action:

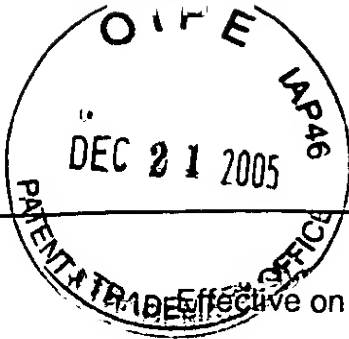
All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal – If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal – If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.

**FEE TRANSMITTAL FOR FY 2005**

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

TOTAL AMOUNT OF PAYMENT (\$) 790.00**Complete if Known:**

Application No. 09/405,826
Filing Date September 24, 1999
First Named Inventor Annette Wagner
Examiner Name Beamer, Temica M.
Art Unit 2681
Attorney Docket No. 82225P2813D3

 Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)

 Deposit Account

Deposit Account Number : 02-2666Deposit Account Name:

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:

☒ Charge fee(s) indicated below.

☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.

☐ Charge fee(s) indicated below except for the filing fee

☒ Credit any overpayments.

☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Large Entity		Small Entity		Fee Description		Fees Paid (\$)
Fee Code	Fee (\$)	Fee Code	Fee (\$)			
1011	300	2011	150	Utility application filing fee	1,000/500	_____
1111	500	2111	250	Utility search fee		_____
1311	200	2311	100	Utility examination fee		_____
1012	200	2012	100	Design application filing fee	430/215	_____
1112	100	2112	50	Design search fee		_____
1312	130	2312	65	Design examination fee		_____
1013	200	2013	100	Plant filing fee	660/330	_____
1113	300	2113	150	Plant search fee		_____
1313	160	2313	80	Plant examination fee		_____
1004	300	2004	150	Reissue filing fee	1,400/700	_____
1114	500	2114	250	Reissue search fee		_____
1314	600	2314	300	Reissue examination fee		_____
1005	200	2005	100	Provisional application filing fee		_____
SUBTOTAL (1)						\$ <u>0.00</u>

2. EXCESS CLAIM FEES

	<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims _____ - 20 or HP = _____		X _____	= _____
HP = highest number of total claims paid for, if greater than 20			
Independent Claims _____ - 3 or HP = _____		X _____	= _____
HP = highest number of independent claims paid for, if greater than 3			
Multiple Dependent Claims _____		_____	= _____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0.00**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
_____	- 100 = _____	/ 50 = _____ (round up to whole number)	X _____	_____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description: Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

SUBTOTAL (3) \$ 0.00

FEE CALCULATION (continued)**4. OTHER FEE(S)****Fees Paid (\$)**

Non-English Specification, \$130 fee (no small entity discount)

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>	
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	790.00
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (4) \$ 790.00

*Reduced by Basic Filing Fee Paid

SUBMITTED BY:Typed or Printed Name: Lester J. VincentSignature: Date: December 21, 2005Reg. Number: 31,460Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450